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AUTHOR:

GROOME ,
REV. JOHN HINDES

TITLE: AN APPEAL TO THE
FREEMEN

PLACE: [LONDON]

DATE:
1812


Master Negative #

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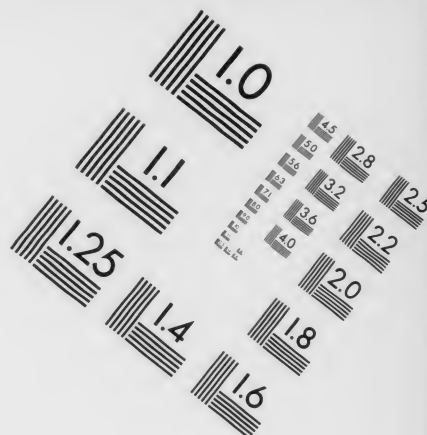
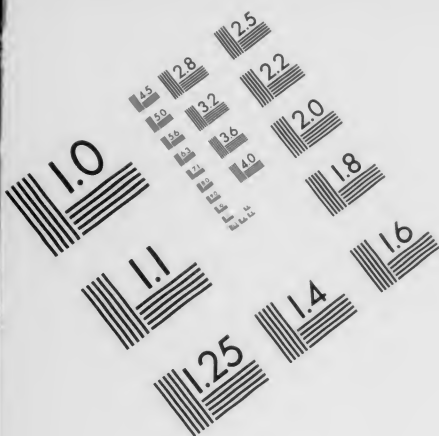


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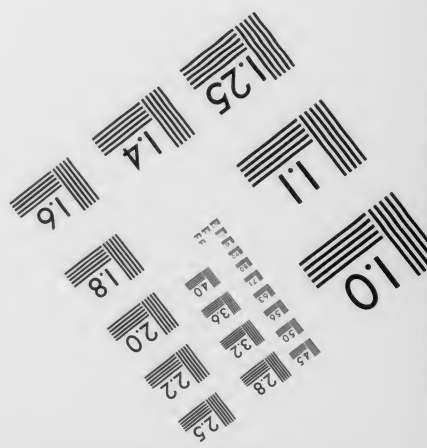
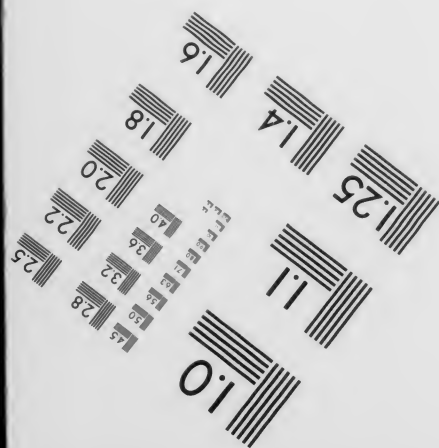
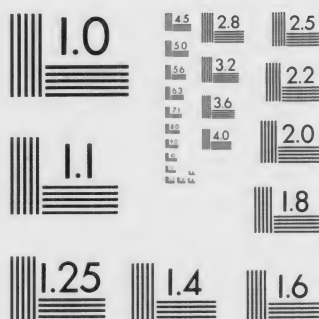
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AN
APPEAL
TO
THE FREEMEN
OF THE
BOROUGH OF ALDEBURGH,
IN THE
COUNTY OF SUFFOLK,
FROM
A LATE DECISION
OF
The Bailiffs and Capital Burgesses
OF THE SAME BOROUGH.

1812.

TO
THE FREEMEN
OF THE
BOROUGH OF ALDEBURGH.

GENTLEMEN,

My presuming to trouble you with the individual concerns of one of your Body needs some explanation; and I trust that what I have now to offer, will not only be deemed a sufficient one, but will also induce you to peruse the following pages with attention, and cause those amongst you who are non-residents, to reflect whether you can conscientiously lend yourselves to a system, that goes to the total disfranchisement of the inhabitants of Aldeburgh, who are the only natural heirs of those rights and privileges, which

were granted to their ancestors by the various charters of the borough.

To put you in possession of the facts, to which I owe (at least) a temporary amoval from my office of capital burgess, I must refer you to the particulars contained in the charge and defence. Allow me here to state, that as the charge, with its accompanying proofs, was made in an *open court*, and as the Recorder decided, (properly and legally), that such a proceeding was irregular, and that he could not permit an *open court* for my defence, I have only this means left me to offer to the freemen of the borough, and to my particular friends, that justification of my conduct, which I had intended to have made in their hearing, but which the decision above alluded to prevented.

I have the honour to remain,

GENTLEMEN,

Your obedient and humble servant,

J. H. GROOME.

Jan. 29th, 1812.

PRELIMINARY PROCEEDINGS.

FROM some communications made to me by several of my friends at Aldeburgh, I was induced to go there on the morning of the 6th of January. About half past one o'clock I was served with the following notice :

" To the Rev. JOHN HINDES GROOME :

" You are hereby summoned as one of
 " the capital Burgesses of the Borough
 " of Aldeburgh, in the County of Suffolk,
 " folk, personally to appear and be
 " at an Assembly, to be holden this day,
 " being the sixth day of January, 1812,
 " between the hours of two and three
 " o'clock in the afternoon, at the Town-
 " hall of the said Borough, in order to

" *amove* * a capital Burgess, and to elect
 " capital Burgesses; and further, to do
 " and transact such matters and things
 " as shall then and there be thought
 " necessary for the good government
 " of the said borough. Given under
 " our hands this sixth day of January,
 " in the year of our Lord one thou-
 " sand eight hundred and twelve.

" P. C. CRESPIGNY, }
 " J. NEEVE, } Bailiffs.

" To William Laughton and John Osborne,
 " serjeants at mace of the said borough,
 " or either of them, for the due execution
 " hereof."

* Mr. Lovett, on the hearing of my defence, said, that this word had no reference to MY amoval, but to a resignation. How the word "*to amove*" can be twisted so as to signify "*to resign*," I cannot, I confess, see. In point of fact, however, no resignation did take place on that day.

" Gnosius hæc Rhadamanthus habet durissima regna
 Castigatque auditque dolos."

The poet describes the practice of this severe judge to have been in this order: first, "he punisheth, and
 " then he heareth." This is not according to the spirit of the British Constitution.

In pursuance of this notice I attended the meeting, and desired the town-clerk to give me the assembly-book. This was at first objected to by Mr. C. Crespigny (for what reason I cannot now even guess), but it was afterwards given to me, when I observed, that at a court held the preceding Saturday, January the 4th, Henry Muller, Esq. had been elected and sworn a capital burgess in the room of Michael Barfoot, deceased; the resignation of their offices of capital burgess had been accepted from Richard Scott, Esq. and George Champion Crespigny, Esq.; Henry William Lovett, — Kensington, and — Copeland Jones, Esqrs. had been elected and sworn into the offices of inferior burgesses, and a number of non-resident freemen elected, some of whom were sworn.

At this period of the business I protested against the legality of their intended proceedings, from my belief and

opinion, that the present bailiffs, although bailiffs *de facto*, were not so *de jure*. This protest not being attended to, the business of the court proceeded; and, after passing two bye-laws; one, restricting the future admission of persons claiming their freedom from servitude; and another, imposing a fine of five pounds upon every person who shall hereafter be admitted to the freedom of the borough, Messrs. Kensington and Jones were proposed, elected, and sworn into the offices of capital burgesses, in the room of Messrs. Scott and Crespigny, resigned.

The court then consisted of the following members:

P. C. CRESPIGNY, Esq.	}	Bailiffs.
J. NEEVE,		
E. TOKER, Esq.		Justice.
J. H. GROOME, Clerk.		
WM. DE CRESPIGNY, Esq.	}	Capital Burgesses.
C. F. CRESPIGNY, Esq.		

H. MULLER, Esq.	}	Capital Burgesses.
— KENSINGTON, Esq.		
— COPELAND JONES, Esq.		

The absentees were, Sir John Keene Bart., Stafford Squire Baxter, and Bartholomew Long, Esqrs.

Mr. C. Crespigny now proposed, that it should be an *open court*. To this I objected, not from any personal feeling, but from my opinion, that to make an open court of a court of common council, held for an especial purpose and according to particular summons, was incorrect. This was, however, overruled; the door was thrown open, and several persons came in: amongst the rest Mr. Lovett, who made his charge and complaint in the following manner, as appears by the record subsequently sent to me by the town-clerk.

“At this court cometh Henry William Lovett, Esq. and exhibiteth a charge and

information against John Hindes Groome, clerk, one of the capital burgesses of the borough of Aldeburgh, for that he, being a capital burgess of the said borough, did write, and send to one John Barnard, deceased, a certain letter, bearing date December 19th, 1806, and that he, being such capital burgess as aforesaid, did write and send to the said John Barnard a certain other letter, bearing date March 3d, 1807; by which said letters he did, against his duty and oath as such capital burgess as aforesaid, and to the prejudice of the public good of the said borough, corruptly propose and offer to sell, barter, and resign his office of capital burgess as aforesaid, for and in consideration of receiving an ecclesiastical living or benefice in lieu of, and in exchange for, his said office. And whereas, at the said assembly held as aforesaid, a further information and charge were exhibited to the said as-

sembly against him, that he, being a capital burgess as aforesaid, and a freeman of the said borough, at an assembly of one of the last bailiffs and others of the common council of the said borough, held, pursuant to public summons, at the town-hall in and for the said borough, on Wednesday, the second day of October, now last past, for the purpose of administering the oaths of office to one of the bailiffs and other annual officers elect of the said borough, did, against his respective duties and oaths as such capital burgess and freeman as aforesaid, and to the prejudice of the public good of the said borough, and minding and intending to hurt, prejudice, and injure the said borough, desire, advise, enjoin, and exhort the said bailiff elect, and other annual officers, not to take or swear the oaths relating or appertaining to their several and respective offices in the said borough; and that he

further, at the said last-mentioned assembly, after the said bailiff elect, and other annual officers, had taken and sworn the said oaths, did, against his respective duties and oaths, as such capital burgess and freeman as aforesaid, and to the prejudice of the public good of the said borough, and minding and intending as aforesaid, desire, advise, enjoin, exhort, and charge the said last-mentioned bailiff, and the said officers, at their peril, not to do, execute, or discharge any of the duties of their said several and respective offices; and that he further, at the last-mentioned assembly, did, against his respective duties and oaths as such capital burgess and freeman as aforesaid, and minding and intending as aforesaid, publicly, and in the presence and hearing of the said last-mentioned assembly, declare in and from his place on the bench of the bailiffs and capital burgesses of the said borough,

that the said proceedings were illegal, void, and of no effect; and that the charter of the corporation of the said borough was forfeited by the said corporation, and was no longer in force or authority in the said borough."

Mr. Lovett having read the above charge and information, he was desired to read his proofs; upon which he read the two following letters:

" Ipswich, December 19th, 1806.

" DEAR SIR,

" AFTER you left Framlingham, my sister informed me, that in a conversation which she had with you, you recommended my resigning my *twelvship* at Aldbro'. Now, in answer to this, I beg leave to make a few observations.

" Early in the spring I wrote to Sir Claude de Crespigny a letter, in which I said, " that the recent death of Mr. Pitt (to whom, however, I was bound by no *single tye*, but that of inclination), the complete alteration of affairs in the borough, and the death both of

Bunniss and his son, having altogether totally changed the circumstances of the place, I felt myself at *liberty*, and had also the wish, to enter into a full discussion with him, upon the question of Aldbro', both in relation to what had past, as also with respect to the future interests of Aldbro'. In regard to the former, I told him, and told him *truly*, that I believed I could explain some particulars, of which he had not the slightest conception: and with respect to the latter, I hinted, that I thought it very probable that we might enter into a reciprocity of good services."

"To this letter I never received any answer: but upon this circumstance I shall make no comment, as I well know the ingenuity of certain people contrived to saddle me with the whole weight of that opposition to which I was only a party. As, however, Sir Claude, for reasons, I suppose, powerful in his opinion, refused to meet my advances towards an accommodation, you can hardly suppose I shall take a step so materially in favour of their interests at Aldbro', as a resignation of the interest I still possess there, without some kind of compensation."

"The proposal I have to make is, 'that I will resign my twelveship, and my uncle Hindes, who has authorized me to use his name, will resign his inferior *burgesship*, upon the conditions, that Sir Claude, or the family, procure for me the presentation to a small living, of the value of 100*l.* per annum, which is expected to be soon vacant, and which is in the gift of the Lord Chancellor.'

"Whether Sir Claude will think it worth his while to do away the possibility of future opposition, by means so easy, must remain with himself to decide; but if you will make the proposal to him, you will be adding to the obligations you have before conferred upon me and my family."

"I left Framlingham on Wednesday, when all my friends were well, if I except my sister, who had a slight attack of rheumatism. My uncle is quite well, joins in best respects to you and Mrs. Barnard, with,

"DEAR SIR,

"Yours very sincerely,

J. H. GROOME."

"Mr. Barnard, No. 11, College Street, Westminster."

" Framlingham, 3d March, 1807.

" SIR,

" IN answer to your letter of the 25th ult. I now write to inform you, that if *the family*, to whom I requested you to make *proposals* in December last, will procure me the presentation to a living of the amount before mentioned, tenable with my advowson of Earl-Soham, and will give such presentation into the hands of yourself, Mr. Long, or any other person they may appoint, there shall, at the time of my receiving it, be given in exchange the resignation of the respective offices that myself, my uncle, and Mr. Wyatt, hold in the borough of A."

" The living which I alluded to in my last letter, is the Rectory of Stratford St. Andrew, near Saxmundham, the present incumbent of which lies in a very deplorable state of debility and insanity. How long he may linger it is impossible to guess: at the time I wrote it was supposed he could not live many weeks: he is at present somewhat revived. This living, however, I only mention as the one most likely to fall within my knowledge; but if

any other of the same value was procured, tenable with Earl-Soham, it would be the same to me; and I believe that is the case with any in the diocese of Norwich."

" The Rector of Holton, near Halesworth, died about a fortnight since. This living, which is in the gift of the Lord Chancellor, (as is also Stratford), is probably disposed of: should it not, and the family would procure it for me, there would be no delay on our part. Mrs. Wyatt, I believe, has written to Mrs. Barnard, by Mr. Poole; and Mrs. Groome joins in compliments to her and yourself, with

" Your very humble servant,

(Signed) J. H. GROOME."

" Mr. Barnard, No. 11, College
Street, Westminster."

It was then immediately voted, without any argument or consultation, and in the presence of the said William Henry Lovett and others, that this charge and information, with the two letters addressed to Mr. Barnard, should

be recorded; that the capital burgesses should be summoned to attend in their places, on Thursday, the 16th of January, 1812; and that a notice should be served upon me to show cause, on that day, why I should not be amoved from my office of capital burgess, and deprived of my freedom of the borough of Aldeburgh. The notice, which had been previously prepared, was then produced by the town-clerk, signed by the bailiffs, and immediately served upon me; copies also of my letters to Mr. Barnard were given to me, and the meeting was dissolved.

Proceedings on the 16th of January.

The court assembled about 11 o'clock: there were present

P. C. CRESPIGNY, Esq. }
J. NEEVE, } Bailiffs.

JAMES MINGAY, Esq. Recorder.

E. TOKER, Esq. Justice.

J. H. GROOME, Clerk.

C. F. CRESPIGNY, Esq.

B. LONG, Esq.

H. MULLER, Esq.

— KENSINGTON, Esq.

— COPELAND JONES, Esq.

} Capital
Burgesses.

The absentees were, Sir John Keene, Bart., Stafford Squire Baxter, Esq. and William de Crespigny, Esq.

The Recorder having, for the reasons before stated, decided that it could not be an open court, gave a charge to the bailiffs and other members of the common-council present, and Henry William Lovett was summoned to prefer his charge and information, and Henry Jermyn, Esq. and Mr. White, the defendant's counsel and solicitor, were also admitted. Mr. Lovett repeated the same charge, and adduced the same proofs (viz. the two letters to Mr. Barnard),

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that had been received on the sixth; and the defendant, having advised with his counsel, entered upon the following defence, admitting the letters to be his hand-writing.

THE DEFENCE.

GENTLEMEN,

THE very extraordinary, and, I will not conceal from you, the very painful circumstances under which I am placed, call upon me to claim your patient and serious attention, whilst I endeavour to rebut the severe and heavy charges that are brought against me, and to convince you, that I have full and sufficient cause to show why I should not be amoved from my office of capital burgess of the borough of Aldeburgh, or deprived of my freedom of the said borough. Before, Gentlemen, I enter upon the parti-

cular defence of my conduct as a capital burgess, I will recapitulate some part of it, as it connects itself with the charges which I am this day called upon to answer. The circumstances, the motives, and the influencing causes that led to a separation of my family from that of Mr. Crespigny, I shall not now dwell upon; they have no relation to the present charges, and would lead me into a detail, that might, perhaps, prevent your lending that serious attention, which I claim, to other more important parts of my defence. Whatever these circumstances or causes might be, the effect was, that it associated me with the interests of a great and deservedly lamented character. The events of the contest of 1799, the reunion of the late Mr. Crespigny to his Aldbro' connexions, and many other particulars, fresh, I have no doubt, in the recollection of some who hear me, it is not now necessary to enlarge

upon; suffice it to observe, that the effect produced upon my mind, was perfect disgust at borough politics, and a determination never to concern myself again respecting them. The deaths of my dear and lamented parents had, previously to this determination, *induced me to dispose of the property I inherited in this placé, which I HAD QUITTED*; and, in point of fact*, for *several years I absented myself*

* This voluntary absenting myself from the duties I had undertaken to perform, needs some apology. The fact is, that I did not think that my attendance could effect one single alteration in the affairs of the burgh, since all influence, of every sort and kind, seemed to be centered in the family of the Crespignys; whose personal rights to the burgh, the inhabitants, by their tacit consent and perfect apathy, appeared fully to have recognised. With respect to the personal obligation to attend to my official duty, perhaps it may be admitted, that I was not at that time perfectly aware of the precise nature of it; and the constant and long standing example of the great majority of the capital burgesses, who, from not

from all the assemblies and other meetings of the corporation, with the concerns of which I never interfered. The autumn of 1805, and the following spring, were, however, productive of such events, as to create anew in my mind a strong desire to effect an accommodation with the family of the Crespignys, and produced that letter to Sir Claude de Crespigny, which I alluded to in the first of those letters which form the ground-work of one of the offences with which I am charged. The events to which I allude, were the death of the great man before referred to; the deaths of Mr. Crespigny and the two Bunnisses. As no notice was taken of an offer made with every feeling of sincerity, I again returned to

residing within the burgh, seldom attended to its concerns, materially tended to confirm the opinion I entertained, that it was a mere matter of personal choice whether I attended or not.

my lately abandoned resolution of not disturbing myself about the politics of Aldbro', nor perhaps should I ever again have done so, had not an election in the autumn of 1806 brought down the late Mr. John Barnard to Aldbro'. This Mr. Barnard, Gentlemen, had for many, many years, been the confidential friend of almost every part of my family: he was entrusted with the management of all our funded property; and although a difference of opinion had taken place between us, upon our separating from the family of Crespigny, yet that private confidence was continued, nor did we even cease to regard him as our personal friend and well-wisher. Nor is this all: this same Mr. Barnard was also the confidential friend and agent of the family of the Crespignys: nay, even before that family had been introduced into the borough, he had possessed the confidence of their predecessors and relations, the

Fonereaus. During that great length of time, it had been a very common practice for many of the inhabitants of Aldbro' to apply to those families, viz. Fonereaus and Crespignys, through the medium of Mr. Barnard; and in the present instance I considered him, as in fact he was, the accredited agent of the family of Crespigny, as well as my own private friend. Thus, then, the family of the Crespignys are as much implicated as myself in this supposed offence; since they were the abettors of that very proposal, to which I shall soon have to call your attention. These, Gentlemen, are well known facts to many; and I can but think particularly so to one of your common-council, our late town-clerk, who was ever the intimate and confidential friend of the late Mr. Barnard*.

* Mr. Long informed me, at the time of my delivering this defence, that, in point of fact, he had not heard of the circumstance till some time after it had taken place.

The mutual feeling of friendship which existed between my family and Mr. Barnard, rendered it to me a matter of no surprise, that on his return from Aldbro' to London, he, accompanied by his wife, should pay a visit to my sister at Framlingham. Whilst Mr. Barnard continued at Framlingham (a period of a day and night, as I believe), we had no conversation respecting Aldbro'; it was by no means a grateful subject, and was consequently avoided: but, soon after Mr. Barnard left Framlingham, my sister informed me of the particulars of a conversation she had had with him upon that subject, one of which was a recommendation, that I should resign my office of capital burgess. Gentlemen, at that period I felt myself perfectly insulated from any connexion of any sort or kind whatever, of a political nature, in the borough of Aldbro': no one's interests, did I conceive, could be possibly affected by any determination of mine: every tie

that had heretofore bound me, appeared snapped, and every door to accommodation shut. Mr. Barnard I considered as a staunch and confidential friend; and with that spirit of confidence, which I trust in God will ever subsist, but which disclosures, like the one to which I owe the present charge, seem fated to do away, I wrote to him the first letter, dated Ipswich, December the 19th, 1806. I say, Gentlemen, I wrote this letter in confidence: but I will not deny, that I should have written it, even had I not conceived that Mr. Barnard was our confidential friend; for, upon my most sacred oath, I could conscientiously affirm, that I did not for a moment conceive that I was committing myself to a proposal that rendered me guilty of any act contrary to my duty and oath as a capital burgess, or that needed the safe veil of secrecy. The act of resignation I considered as totally distinct from any

of the duties I had upon oath undertaken to perform whilst I held the office. The weight, however, of this argument I shall not insist upon in this place, as I want, previous to that part of my defence, to put you in possession of the whole of the transactions which have occasioned this public arraignment of my conduct as a capital burgess. The letter of the 19th of December, 1806, produced an answer from Mr. Barnard, in which he informed me, that he had communicated my proposal to the family of the Crespignys; and he was authorized to say, that if I, my uncle, and Mr. Wyatt, would resign the offices we respectively held in the borough of Aldbro', my wishes should afterwards be complied with. The manner of this answer was disgusting, but still it increased my wish to do away all connexion with borough-faction; and feeling, as before, the extinction of all claim, and the per-

fect propriety of the offer, I was induced to write the letter dated Framlingham, March the 3d, 1807. To this letter I received an answer, that the family adhered to the resolution contained in his last. Here all communication ceased; and, in point of fact, Mr. Barnard died within three days of his last writing to me. That letter was, as his widow has since informed me, the last he ever wrote*. And now, Gentlemen, before I enter upon the second offence, as it is termed, with which I am charged, permit me to offer to your attention a few observations upon the one, the circum-

* I have since been informed, by authority upon which I can rely, that the promise of the living was in fact procured; and that this negotiation, which was retarded by the point at issue between us, whether our resignations should take place of the presentation, would certainly have been completed, had not the death of Mr. Barnard prevented all future explanation.

stances connected with which I have just introduced to your notice. That the offer to resign an office upon any conditions whatever can be construed into a corrupt act, contrary to the duties and oath of the person entrusted with that office, is a position I cannot entertain for a moment; nor will any authority short of the verdict of an impartial jury, or the determination of the upright bench of judges with which this land is blessed, ever convince me that I have formed an erroneous opinion. Read, Gentlemen, the oath of office*; see if

* OATH OF A CAPITAL BURGESS.

" You shall bear faithful and true allegiance to our sovereign lord the king, his heirs and lawful successors: you shall, to the utmost of your power, uphold, maintain, and keep all and singular the liberties and privileges of this burgh: you shall not do, nor suffer to be done, any thing that may tend to the prejudice, hurt, or scandal of your fellow brethren, nor of this burgh; but so soon as you shall know and

the tenour of it accords with my accuser's

hear of any such matters, forthwith to discover and disclose the same to the bailiffs, or one of them, for the time being: and you shall be aiding and assisting, and counselling, to the best of your power, skill, and knowledge, to the bailiffs, or others your fellows, and free burgesses of this town, in all things you are able to do for the good of the common weal within the same: and do all things else that appertain to the office of a capital burgess."

It is evident that the whole bearing of this oath is *durante officio*. Mr. Lovett, in his reply, insisted much upon the injury and scandal attached to the offer of resignation. What injury the burgh could sustain by an offer to resign an office into the hands of the bailiffs and common-council, who had the power of accepting or refusing it; and, in the former case, of filling up the vacancy at their own discretion, remains yet to be proved.

Again—Mr. Lovett insisted, that it was publicly offering an office of trust to sale. That I can ever succeed in convincing Mr. Lovett, that such a proposition, as attached to a corporate office, is legal, I do not for a moment suspect: but, with respect to the offer I confess to have made, be it remarked, that although Mr. Lovett asserted that it was public, yet

assertion. Superfluous would it be for me to remind you*, that all personal, partial, or interested motives should be laid aside on an occasion so grave as the present. However, Gentlemen, we may contend for parliamentary or local influence; yet I cannot bring myself to believe, that when, upon your sacred oaths, you are called upon to assist the

he himself acknowledged the whole was a confidential proceeding. Corruption and scandal are the watchwords of the day; and much do I wish that no better grounds could be found for such charges, than the offer which I confidentially made, five or six years since, to a private friend, to resign the office of capital burgess of the burgh of Aldeburgh.

* This advice must have been perfectly superfluous; since, of seven capital burgesses who voted for the amoval of the author of this Address, three had been elected members of the corporation within the preceding week; and the other four were Messrs. Philip and Charles Crespigny, their brother-in-law Mr. Toker, and their impartial and independent friend Mr. Neeve, heretofore master of the White Lion Inn.

venerable* magistracy of this ancient borough with your best counsel and advice, you will not look at men, but measures; you will not act contrary to your oath and conscience, but that, in conformity with both, you will give your opinion accordingly.

Gentlemen, the resignation of a corporate office for a valuable consideration, is no anomaly in borough records;

* The ten capital burgesses are of the common-council of the burgh, by the constitution of the Charters both of James and Charles, which are nearly verbatim alike, except that the latter is extended by the incorporation of a free-school. It might, by the bye, be a question worthy the research of some antiquary, to endeavour to discover what has become of this same school, with its probable endowments. An inquiry of this sort might lead to a discovery, whether the total loss of all these benefits and privileges is owing to the destructive ravages of the sea, or to any other cause. It has been suggested, that, probably, the records of the Manor might throw some light upon a subject so peculiarly interesting.

in many corporations it is an acknowledged principle: in the corporation of Norwich, an alderman resigning his gown has often a pension of fifty pounds for life. *Parva componere magnis*, Gentlemen, the same principle is recognized in the laws, or rather, perhaps, in the customs of States, many of which, by public treaty, have changed hands for a valuable consideration: nor has the Prince, or Potentate of such State, ever been accused of acting contrary to the duty and oath by which he bound himself to maintain the laws and liberties of his country, although the policy of his conduct may have been questioned. The late Margrave of Anspach is a recent and well-known instance of this sort. The duties and oath, Gentlemen, in all cases are only binding *durante officio*; nor can any proposal, that has not in contemplation an act under that circumstance, be made a matter of just

accusation against the person proposing it. Thus much for the opinion I entertain respecting the difference of a proposal to resign an office for a valuable consideration, and an offer to do any act of office for a similar motive. Respecting, Gentlemen, that offence of which I am individually accused, you will not, I am sure, fail to notice, that no act was positively committed, no bargain actually concluded; an hypothetical "*if*" introduces every sentence; all is mere intention and wish; the gold of corruption, if so my accuser will have it, never entered my hand, nor is there, in this part of the charge, a single overt act committed, that can, as I contend, be brought as matter of just accusation against me. It may, perhaps, be insisted upon, in argument, that intention is clearly proved; that I would have resigned had my proposals been complied with. Be it so: but here let me remind you, Gentlemen,

that, as impartial jurors on your oaths, for in that solemn and grave capacity you stand, it is your duty, if intention only is to constitute crime, to look at the *whole bearing* of my intention. These letters, as I have before said, were written confidentially; and I do not now hesitate to affirm, that to make them the groundwork of a public accusation, is an offence against all the rules of our common and natural affections, an offence against the well-regulated principles of common honour, and an offence which breaks to pieces every tie that binds man to man, through all the tender humanities of social intercourse. But, Gentlemen, although these letters were written confidentially, yet I never, for a moment, supposed it necessary to secrete their contents; by me they have never been concealed; they have been open to the inspection alike of my friends and enemies; copies of them have been in their

possession for years; and I could bring witness upon witness to your table, that I have frequently made them the subject of conversation. Is not this a convincing proof, that I did not feel conscious of any evil intention? If it was an error, it was only one of judgment, the effect of an erroneous opinion, which, at the utmost, can only be deserving of cautionary reprimand: but even this, under all the existing circumstances of the case, I can but think would be deemed too severe a reproof*. If, then, no act

* The Recorder, James Mingay, of Ashfield, Esq. certainly entertained a different opinion; since, upon his summing up the evidence adduced against me, he never once adverted to any of the arguments contained in this defence, with the solitary exception of reminding the capital burgesses, then present, that the alleged offence had been committed some years since; but contented himself by observing, they had only to look at the offer in the abstract, and if they thought the making such an offer was *misbehaving* myself in office, their duty was then plain and IMPERATIVE; since the

was positively committed, if no bargain was actually concluded, if the whole

clause of the Charter, which relates to the amoval of a capital burgess, left them no choice. Whether this opinion of the learned Recorder had any weight in producing the vote of amoval, which afterwards took place, it is impossible for me to guess: and whether this opinion was correct, or impartial, must remain with my readers to decide. To enable them to form such a decision, I shall insert the clause as it stands in the Charters of James and Charles; and the translation of the latter, which has been commonly received as authentic within the burgh.

The Latin original is the same in both Charters—

“ Et ulterius volumus, ac per presentes pro nobis, hæredibus et successoribus nostris quod quandocunque contigerit aliquem vel aliquos de predictis decem capitalibus burgensibus burgi prædicti obire, vel ab officiis suis pro aliquâ causâ rationabili amoveri (quos quidem capitales burgenses burgi prædicti, sive eorum aliquem, vel aliquos se *non bene gerentes vel gerentem* in officiis suis amobilem et amobiles esse volumus) ad *bene-placitum* ballivorum et capitalium burgensium burgi prædicti, vel majoris partis eorundem (quorum alter ballivorum burgi prædicti pro tempore existentiū unus esse volumus), &c.” 8. p. pat. 4 Jac. I.

appears to have arisen from mistake and indiscretion, not from wilfully corrupt intention, surely I must stand exculpated from that part of the charge and information, which accuses me of corruptly offering to sell, barter, and resign my office of capital burgess of the borough of Aldeburgh.

Gentlemen, it may perhaps chance to happen, that some future culprit may be publicly arraigned in this court, on

The above clause is thus translated—“ And further We will, and by these presents, for us, our heirs and successors, we grant, that so often as it shall happen that any of the said ten capital burgesses of the said burgh shall die, or be amoved from their offices for any reasonable cause, (which said capital burgesses of the said burgh, or any other, not behaving themselves well in their offices, we will *to be amoveable*,) AT THE PLEASURE of the bailiffs and capital burgesses of the said burgh, or the major part of them, (of whom we will that one of the bailiffs of the said burgh, for the time being, be one,) that then, &c. they may elect others, &c.”

whom not only intention, but positive acts of corruption may be proved; of acts that are not merely connected with the resignation of an office; but of acts, *durante officio*, that, contrary to the oaths and duties of office, tend to the positive hurt and injury of the best interests of the borough, to the disfranchisement of its inhabitants, and to the public prostitution of its charters*. Should such a culprit ever be brought to your tribunal, on him let loose the torrent of your just

* No fact can be more positive, or more publicly known within the burgh, than that some of the late capital burgesses and freemen, *resident within the burgh*, have been induced to resign their several offices and franchises for a valuable consideration paid, or caused to be paid to them by the present patron of the burgh. Surely there can be no question between the act of resignation, and the actual corrupt purchasing these resignations, as it should seem solely for the purpose of disfranchising the few resident freemen of the place.

and legitimate indignation, on him execute your full and complete authority. Let me, in the next place, remind you, Gentlemen, of the *great length of time* that has elapsed, since the commission of that supposed offence which I am now called upon to defend. *More than five years* have elapsed since the date of the first of my letters written to the late John Barnard; and that delay has not arisen from ignorance of the transaction, the documents upon which this charge is now preferred, have been all that time in the pocket or possession of a gentleman now present, and he has even mentioned them in this court*. Yet, during

* I have since recollected, that it was on the 8th of September, 1807, that Mr. Charles Fox Crespigny, either in the town-hall, or in the council-chamber, mentioned that he had two letters of mine, which he would publish, if I offered any opposition to his views. Reflecting upon the propriety of this act for more

that time, no charge has been made against me, no imputation has been thrown upon my conduct as a capital burgess, nor any attempt been made to deprive me of an office, which I value as a birth-right: yes, Gentlemen, I again repeat this assertion, as a birth-right; for that it was the intention of the monarchs who have granted the various charters to this ancient and populous borough, to confine the advantages, the privileges, and the honours, with which they endowed it, to the natives or inhabitants within the borough, is evident from every clause they contain; and, notwithstanding that a power, unknown to our corporate constitution, now usurps all

than four years, he has at length put it into execution. Whether this public exposure of a private correspondence with the confidential agent of his family, will justify Mr. Crespigny's conduct, or tend to the consolidation of his property and interest in the burgh, is not a question for me to decide.

the strong holds of our borough, yet do I with heartfelt satisfaction and confidence, look forward to that auspicious day, when the men of Aldeburgh will again be restored to their freedom of the borough, will again be able, by their own strength, decision, and independent vote to send their own representatives to the Imperial Parliament of the Empire*.

* The following extracts from the different Charters granted to the burgh of Aldeburgh, by the monarchs whose names they bear, and the returns of members to serve in parliament, will, I trust, not only convince my readers of the correctness of the ideas I entertain upon this subject, but will also, at no distant period of time, be the means of restoring to the inhabitants of Aldeburgh their ample and highly valuable privileges, which, for so many years, have been so unjustly withheld from them.

King Edward the Sixth, in the second year of his reign, (A. D. 1549), "on account of the singular regard he bore towards his tenants and *inhabitants* of Aldeburgh, (for so runs the grant), incorporated the same burgh, and the inhabitants within the same, by

But, Gentlemen, to return to the consideration of the charge this day preferred against me: the length of time that has elapsed since the date of these

the name of the bailiffs and burgesses of the burgh of Aldeburgh, in the county of Suffolk: and he further granted, by the same presents, that the aforesaid *inhabitants* of his said burgh, for the time being, upon the feast of the nativity of the blessed Virgin then next, and upon every feast of the nativity of the blessed Virgin thenceforth for ever, should meet in the Guildhall of the said burgh, and there choose two persons, then burgesses of the burgh aforesaid, as bailiffs of the same burgh, who should exercise that office of bailiffs, for one entire year, next following, for the safe and wholesome government of the said burgh." And he conferred, by the same Charter, very large and extensive privileges upon the inhabitants.—7 p. pat. 2. Ed. VI.

This Charter was recited, word for word, and confirmed by Philip and Mary, in the first year of their reign.

This same Charter was again recited and confirmed, in a similar manner, by Queen Elizabeth, in the first year of her reign.

letters, ought, I humbly contend, to do away no inconsiderable part of the criminality attached to them, even if, for

The following returns of members to parliament were of course made, by those exercising the elective franchise, as *burgesses*, under the Charter of Edward the Sixth:

13 Eliz. 1571.	{	Roger Woodhouse, Esq.
	{	Thomas Wigford, Esq.
14 Eliz. 1572.	{	Francis Beaumont.
	{	Charles Seckford, Esq.
4th Nov.	{	Peter Osborne, of the Exchequer.
26 Eliz. 1585.	{	John Fox, merchant.
28 Eliz. 1586.	{	Peter Osborne, Esq.
	{	Edmund Bell, Esq.
31 Eliz. 1588.	{	Edward Cooke, Esq.
	{	William Bence.
35 Eliz. 1592.	{	Thomas Knevett de Ashwelthorpe.
	{	William Bence.
29 Eliz. 1597.	{	Francis Haton.
	{	Francis Johnson.
43 Eliz. 1601.	{	Martin Stutvill, Esq.
	{	Francis Corbet, Esq.
1 James, 1603.	{	William Woodhouse, Knt.
	{	Thomas Knevett, Esq.

the sake of argument, I for a moment admit that any part of their contents is

These returns are principally collected from Willis's *Notitia Parliamentaria*. Some have been examined with the original indentures, remaining in the Rolls chapel.

King James, in the 4th year of his reign, upon the petition of the then bailiffs and burgesses, (who must, of course, have been *inhabitants*), granted this burgh greater indulgencies, and gave them a new constitution. He declared, that, "thenceforth for ever, there should and might be (*infra burgum*) within the burgh aforesaid, two of the more honest and discreet burgesses, in manner therein mentioned, to be chosen, who should be called bailiffs of the burgh aforesaid."

"That there should and might be, within the burgh aforesaid, ten of the better and more discreet burgesses, of the burgh aforesaid, in manner thereafter mentioned to be chosen, who should be and be called capital burgesses." "And that the bailiffs and capital burgesses should be of the common-council of the same burgh."

"That there should and might be, within the burgh aforesaid, 24 of other honest burgesses, in manner after mentioned to be chosen, who should be and be called inferior burgesses."

criminal, since it has enabled my colleagues in office, the inferior burgesses,

He makes Francis Foreman and Matthew Groome, who are called the then bailiffs, (of course inhabitants), the first and modern bailiffs of the same burgh. And in the clause nominating the ten capital burgesses, they are expressly stated to be *burgenses et inhabitantes*.—18. p. pat. 4 Jac. All former Charters are confirmed.

The Charter of Charles is, as to these clauses, a precise copy of that of James, excepting the names of the then bailiffs, capital and inferior burgesses; and confirms all preceding Charters.

It is worthy of remark, that the last decision of the House of Commons, upon the right of voting for members of parliament for this burgh, was in direct opposition to the determination of their committee. The House declared the right to be in the freemen and burgesses, as well non-resident as resident, not receiving alms. By the operation of the Grenville act, this decision, as the last of that house, becomes conclusive as to this right. This, therefore, is not the point in agitation. Mr. Simeon, in his treatise on the Law of Elections, p. 125, 6, lays down this doctrine: "Where a place has sent members to parliament, the right of election cannot be restrained or narrowed by any

the freemen resident within the borough, and the inhabitants at large, to witness and bear testimony to my conduct as a capital burgess, for so long a period. If, during that time, it appears that I have not been unmindful of my official duties; if, during that period of five years, I have constantly obeyed the legitimate and lawful rule of the ma-

Charter of incorporation granted by the crown to such place: and though that Charter is accepted and acted under for many years together, yet if it can be shown (which I think I have shown) that at almost any period there was a different and larger right of election, the old right shall be revived; and the new right being illegal in its commencement, cannot be justified in practice: and, therefore, in the Chippenham case, in 21 James I., a right of voting, exercised under a Charter granted in the 1st year of Queen Mary, was declared bad; being repugnant to the more extensive and customary right existing before that period." Is this right, here contended for, in any degree repugnant to the last decision of the House of Commons, or how is it in any manner affected by it?

gistracy, and if I can make it appear to you, that I have uniformly counselled, advised, exhorted, and admonished the bailiffs to the best of my judgment, and according to the strict tenour of my oath; surely these circumstances should make you pause, before you listen to an accusation that has been deferred so long*. But, Gentlemen, there are certain circumstances connected with these accusations, which will, I am convinced, throw back upon my accuser the charge of corruption, and induce you to give, by the decision you are this day called upon to make, a public testimony to the world, that the bailiffs and common-

* No imputation was attempted to be thrown upon my conduct during all that period: but neither this, nor any other argument I thought it my duty to submit to the consideration of the Court, seemed to be understood by them; probably owing to the Recorder not thinking them of sufficient weight to recall their attention to them.

council of the borough of Aldeburgh will always spurn, with scorn and contempt, an accusation against any individual, and especially one of its own body, that has its origin in conspiracy, corruption, and violence. To put you, Gentlemen, in possession of this part of my defence, I must again revert to the spring of 1807. The death of Mr. Barnard terminated all correspondence between me and the family of Crespigny; and I again reverted to the determination which had, for several years, caused me to absent myself from all the meetings of the corporation. It happened, however, in the summer of 1807, I had occasion to remove my family to the seashore. My professional duties laid within a few miles of Aldeburgh, and this circumstance alone induced me to take a house here; for, otherwise, I should certainly at that time have preferred any other place. But, Gentlemen, although

I came to Aldeburgh in June, yet I never, in the slightest degree, interfered in the political concerns of the borough till the 8th of September, when, being resident within the borough, I felt myself bound to attend in my place as a capital burgess. It happened, Gentlemen, from some cause or other, that our late town-clerk was absent on that day, and that he sent down, as his deputy, the gentleman who now so ably fills that important situation. Whatever may be that gentleman's abilities, he was not, however, at that time perfectly acquainted with the customary routine of business upon a charter-day; and some irregularities, which I could not help observing, made me hint, that I thought we should endanger our charter by any neglect of the formalities, which it prescribes. This advice, which I gave with a real wish to prevent mischief, and which the accident to which I have just adverted alone

called for, was adopted; but, notwithstanding its adoption, it called forth the spleen and revenge of a certain individual*, which, far from spending itself upon me, reached all the unoffending members of the corporation, whom he that day invited to his table; since, as I have been very credibly informed, he told them, as he had previously informed me, that their support or enmity was equally a matter of indifference to him, for that his property in the borough did not depend upon the good wishes of the inhabitants†.

* See note, p. 43.

† Such has certainly been the avowed principle of the present patron of the burgh on many occasions: nor can it much be wondered at, since he probably conjectured, that no one would bequeath what he did not actually consider as his own peculiar property; and, consequently, Mr. Charles Fox Crespigny, naturally enough, considered his interest in the burgh of Aldeburgh as not depending upon the good wishes of

Gentlemen, this intemperate warmth produced an effect, which in no long time its inhabitants. The annexed codicil certainly affords some grounds for Mr. Crespigny's opinion.

(Extracted from the Registry of the Prerogative Court of Canterbury.)

“THE THIRD CODICIL to the Will of PHILIP CHAMPION CRESPIGNY, late of the CITY of BATH, Esquire, deceased, is as follows:

“I HEREBY declare this to be a further codicil to my last will and two codicils, and in explanation of my will and intention in respect to any property and interest in the borough of Aldeburgh, in the county of Suffolk: my eldest son, Thomas, being dead, I will and direct my executors and trustees to apply not only the income and produce of all my estate and property in the said borough, to maintain and keep up my family interest there, and to the general expences and annuities, as I am bound in honour, or otherwise to pay, and which I may be in the payment of at the time of my death; but also to appropriate for the like purpose, so much more as may be necessary from the rents, issues, and profits of any other part of my estates. And it is my wish, intent, and meaning, that a separate account should be kept of all receipts as well as outgoings and expences relative to my said

embodied a small but compact party, determined to protect the rights and pro-

estate, houses, and property, and interest in the said borough of Aldeburgh; and whenever they are possessed of and have in hand any sum beyond or more than* as been by them advanced and paid for the above purposes, that then they shall divide such balance or surplus in two equal parts or shares, and pay one equal part or share thereof to my now eldest son Philip, and the other equal part or share to be carried to the account of my two younger sons, Charles and George, or to the survivor of them, my said two younger sons, and so to be continued until † P. C. one or either of them my said two younger sons, P. C. or the survivor or survivors of them, arrives at or comes to be of the age of twenty-one years. And I give to my son Philip, jointly with my executors and trustees, the use of my house and every thing therein, at Aldeburgh aforesaid, until my sons Charles or George, or the survivor of them, arrives at the age of twenty-one years; and I release and acquit my son Philip from any debts he may owe to me, and I direct that he may from time to time be reimbursed any rea-

* So in the original.

† I suspect these initials to be marks in the margin, perhaps attesting some erasure or interlineation.

perty of the inhabitants, and to oppose a barrier to an usurpation which, always disgraceful, had now become oppressive and vindictive. How far the virtuous and good intentions of that party may be rewarded by success; remains yet to be, in some measure, proved; for, although solid and permanent benefits have been already obtained*, yet still greater and

sonable expences he may be put to for his necessary attendances at Aldeburgh for the above purposes.

"Witness my hand this 26th May, 1800.

"P. C. CRESPIGNY."

"Proved at London with the Will and nine other Codicils, 7th March, 1803."

* The benefits already obtained, result from the reclamation of the quay property and the town marshes; from neither of which the inhabitants of Aldeburgh have collectively experienced any benefit for many years. At present, indeed, the marsh property is a subject of litigation; but as it is now before the Court of Chancery, there can be no doubt but that the rights and privileges of every individual concerned will be properly and fully appreciated. Whilst this

more glorious results may confidently be anticipated. That I have been an active favourer of this party, I will not for a moment deny: on the contrary, Gentlemen, I am proud to acknowledge it. The exertions of this party have infused a new vigour into the minds of many, who, despairing of ever seeing the liberties of this town restored, vainly regretted their past apathy. It has united the hearts of more than nine-tenths of the inhabitants of this place in one wish and sentiment, that of freedom and in-

suit remains undecided, it is of course impossible for the acting trustees to make any use of the rents and profits of the marshes, except in keeping them in repair: but the author of this address pledges himself, as one of them, not to miss the first opportunity, when he feels himself legally authorized to do so, of proving to the inhabitants of Aldeburgh, that he holds his trust for their benefit.

The hopes which the author entertains of greater and more glorious results, may be collected by referring to the note in p. 42.

dependence. But, Gentlemen, although I have acted in concert with the inhabitants of this my native place, I have never been induced to commit any act that I did not conceive in strict accordance with my duty and oath as a capital burgess, nor have I ever (I appeal to those who hear me with the utmost confidence) betrayed any contempt to the authority of the bailiffs and common-council of this borough legally and constitutionally appointed. From the period, then, of 1807, I shall pass on to the 29th of September, 1811, since I am not aware that any circumstances, previous to that day, connect themselves with the present charge, as far as regards my conduct: though, Gentlemen, I feel assured I shall be able to convince you, they have had a great and momentous effect upon the conduct of my accuser, and a certain individual whose confidence he

possesses*. The omission of a court to swear in the bailiffs elect within the time prescribed by our charter, led to an assembly on the second day of October, for the purpose of swearing in one of the new bailiffs. To this assembly I was summoned by Edward Toker, bailiff. Upon my attending the assembly, I inquired of Mr. Toker, whether, in point of fact, he signed this notice at the time of its date, viz. the 29th of September? To this question Mr. Toker twice declined giving any answer. Now, Gentlemen, you will, I am convinced, concede to me this point, that, at the expiration of the 29th of September, 1811, which is the conclusion of the feast of Saint Michael the archangel, Mr. Toker's office of bailiff of the borough of Aldeburgh, to which he had been elected on the 6th of September, on the feast of the nativity

* Charles Fox Crespigny, Esq.

of the blessed Virgin, in the year 1810*, had ceased and determined. Consequently, after the expiration of that day, Mr. Toker could not, as bailiff, summon an assembly of the common-council of the borough, nor could he do any one official act†. It is with me a question, whether, even previous to his quitting

* This is not precisely accurate; for, upon recollection, Mr. Toker was elected and sworn in bailiff on the 24th of December, 1810, in the room of Michael Barfoot, deceased, for the remainder of the year. This, however, does not militate in the slightest degree against my argument, since his office expired at the same time, viz. on the 29th day of September, 1811.

† The Recorder in this place interrupted the defence, by stating, that there was a general power of holding over under the Charter, and that Mr. Toker ought not to have convened a meeting for the purpose of swearing in the new bailiffs, for that he might have sworn them in at any time and in any place, even in the street, if he had met with them. How far this doctrine agrees with the fair construction of the Charter, will soon be decided by a court competent to the question.

his office, he could issue a summons to assemble upon a day posterior to the cessation of that office, since it must imply an interference with the authority of his successors. But, Gentlemen, if it can be proved, and this I know to be the case, that Mr. Toker, who resides in the distant county of Kent, did not arrive at Aldeburgh till the afternoon of the first of October, and that he signed this summons as bailiff nearly eight and forty hours after he had ceased being bailiff, *i. e.* after his arrival at Aldeburgh, you will, I am sure, feel convinced, that, as a capital burgess of the borough, I did but my duty strictly and conscientiously, in counselling, advising, enjoining, and exhorting the bailiff elect, and other annual officers, not to take or swear the oaths relating or appertaining to their several and respective offices in the said borough, in an assembly illegally and improperly convened and summoned.

But, Gentlemen, whether this defect, and many others which happened on that day, can ever be remedied, or whether they require a remedy, is a question, the merits of which it is not my intention now to discuss; they will be soon argued before a tribunal competent to decide the question*, and I do not wish to glance even at the result of that inquiry. Whatever may be the event of the impending discussion, I recognize the authority of this court, as an assembly of the bailiffs and capital burgesses of the borough of Aldeburgh *de facto*. In virtue of that recognition I have obeyed your summons, and have claimed your patient hearing of my defence. But, Gentlemen, when a person steps forward, and boldly

* As this question remains yet undecided, and as measures have already been taken to ascertain whether the opinion I entertain be correct or not, I feel myself bound to abstain from noticing any arguments or facts upon which that opinion is founded.

accuses a member of your common-council of acting contrary to the duties and oath of his office, it becomes your duty to search into the nature of those duties, to look at the literal meaning and bearing of his oath, and of that clause of your Charter upon which that oath is founded. This inquiry, Gentlemen, will, must lead you to this conclusion, that every member of the corporation is bound to watch over, guard, and protect its rights and privileges, and that every member of the common-council of the said corporation is bound by his oath to aid and assist the bailiffs with his counsel and advice, according to the best of his judgment. Now, Gentlemen, if, in pursuance of my oath, I did advise and warn the bailiff elect, according to the best of my judgment, what did I that can deserve the censure and accusation so heedlessly brought against me. If, on my oath and conscience, believing

that the corporation was working its own ruin, and conspiring to its own destruction, I had either joined in its acts, or had absented myself from its assemblies, whether legally or illegally convened, I might, with justice, have been accused of acting contrary to my oaths and duties as a capital burgess and freeman: but if acting in conformity with them according to the best of my judgment and ability, is to be constituted a crime, merely because my judgment happens to be at variance with that of other members of the corporation, then am I at a loss to know what essentials are necessary to the performance of a duty. My judgment might be erroneous; my opinion ill-founded; still it was no less my judgment and opinion; and I am confident you will agree with me, that I was bound to act in conformity with it. But here, Gentlemen, comes another part

of the charge* and information ; I gave this advice, according to my accuser's assertion, minding and intending to hurt, prejudice, and injure the borough of Aldeburgh. The metaphysics of my accuser are, I know, of rather a singular nature ; but I did not know, that he fancied he possessed the faculty of searching into the secret recesses of the heart, or diving into the very operation of intention. For my own part, I do not pretend to such a power, or otherwise I might assert, that my accuser, in publishing a certain book † fraught with strange assertions and delusive opinions, was minded to hurt and prejudice the happiness of the world, or at least that part

* This part of the charge and information was abandoned, in consequence of the opinion of the Recorder, that there was not any evidence to support it.

† Thoughts on the Origin of Evil, by Mr. H. Lovett.

of it, which is blessed with the Christian revelation. I will, however, give him credit for other feelings ; and however I may lament this misapplication of the talents he possesses, and grieve that he gives himself so entirely up to the delusions those talents have engendered, yet I will not lay at his door charges which no man can prove, namely, criminality of mind and intention*. But

* Mr. Lovett in his reply asserted, that I had very ingeniously bandied about the argument of intention ; insisting in one place, that my intention being evidently innocent, it ought to absolve me from all reproof ; and in another, that as the fact committed could only be culpable from the *malus animus* that prompted it, so was that act excusable, since the *malus animus* could not be proved. Mr. Lovett, to controvert this supposed artifice in my argument, informed the court, what every person conversant with the common principles of our law must know to be true, that in all indictments *intention* is made a part of the charge. Mr. L., however, did not state what is equally well known, that intention only is not of itself

you may perhaps argue, that certain acts prove the intention, and that mine have been hostile to the interests of this borough. If, by this borough, you mean a certain individual or certain individuals who have usurped its rights and privileges, destroyed its franchises, and

sufficient to constitute crime. A charge is not maintainable if the *malus animus* is not proved: nor can the *malus animus* be punished without it is followed by some corresponding act. Now, with respect to the first charge, I insisted, that as no act was committed, the mere intention to commit it was not in itself a legal ground for punishment; but that even if they did so consider it, the intention that had prompted me could not be deemed worthy of reproof. With respect to the second charge, I did not deny that my intentions could not be known as far as they depended upon the act: on the contrary, I pleaded guilty to the charge under certain limitations, nor do I now shrink from such avowal.

My incidental reference to Mr. Lovett's theory of metaphysics, could alone afford him the least colour for the arguments he advanced respecting the ingenuity of mine.

tarnished its good name, then do I plead guilty to this charge. But, Gentlemen, you will not fail to make a distinction between an opposition in conduct towards certain individuals who, were I upon my oath, I should affirm, were enemies to the prosperity and best interests of the borough, and that charge of minding and intending to hurt, prejudice, and injure the borough itself*, of which I

* That the corporation of Aldeburgh, as it is at present constituted, is of any advantage to the inhabitants of the burgh, is a question it would be superfluous to discuss; since I believe that very few individual exceptions, out of the whole mass of its population, could be found, who would not rejoice in its dissolution; unless its continuance was accompanied by a restitution of the rights and privileges granted to their forefathers, and which they ought unquestionably still to possess. Of this corporation there are resident within the burgh—bailiffs, one—justices, not one—capital burgesses, two—inferior burgesses, nine—freemen, whose aggregate number may be estimated from 120 to 150, not more than 20—and of these

am accused. So much, Gentlemen, for the charges that have been preferred against me. I have next to call your attention to the time and manner in which these charges have been brought forward, and to entreat that you will not, in forming your decision, be unmindful of the circumstances under which they exist. A few days subsequent to the second of October, I believe it might be the ninth or tenth, I had, after several years spent in demands and requests, been allowed an inspection of the books and records of this borough, and will admit that there was an appearance of civility and accommodation in the manner of doing this; that, certainly, had always best be maintained amongst Gentlemen, however their views, opinions,

several are placemen; not one of whom, be it remarked, owes his situation to the *powerful* influence of the present patron.

and interests may clash. Mr. Lovett, my accuser, a circumstance, by the bye, I should not have known had I not come down to Aldeburgh on the sixth of this month, since his name does not occur in the notice which was subsequently given to me; Mr. Lovett, I say, was present at the search I made, together with Mr. Philip and Mr. Charles Crespigny, when a conversation took place respecting the late omissions and acts of the corporation, which I should think must have convinced him, that I had acted according to the best of my judgment and the information I had obtained. It happened, Gentlemen, that upon my return to the White Lion Inn, as I sat in company with my friend Mr. Jermyn, arranging the extracts I had made, I was told by the servant a gentleman wanted to speak to me; and, upon going down stairs, I found Mr. Lovett waiting. We

walked together upon the beach opposite the inn; and after some introductory apology, (but here I beg leave to observe, that I am willing to be corrected by Mr. Lovett*, if, owing to any failure of memory, there should be the least inaccuracy in what I am about stating to you), Mr. Lovett informed me, that it was Mr. Crespigny's intention to amove me, if possible, from my office of capital burgess. Mr. Lovett then produced a paper, and read from it the very accusation, as I believe, that is contained in the notice lately delivered to me in this court. To this I replied, that I had no doubt of Mr. Crespigny's wishes, and that, if I had unwittingly offended against the laws of my country, or the ordinances of the corporation, I

* Mr. Lovett did not offer any objection to the statement I made, nor did the Recorder once advert to it in summing up the particulars of the accusation and defence.

must submit to the effects of my offence. Mr. Lovett then informed me, that opinions had been had upon the case, and admitted that a difference of opinion* existed; but added, that Mr. Crespigny would run the hazard of it, if I persevered in my present hostility to him; for, sir, continued Mr. Lovett, although I have shown you what, under certain circumstances, is Mr. Crespigny's intention, yet that is not the chief purport of my visit to you, which is, to inquire whether it would not be possible to effect a reconciliation between you and Mr. Crespigny? To this I replied, that a political reconciliation was now become impossi-

* That a difference of opinion does exist I can easily imagine, since the legal friends whom I have consulted, certainly differ in toto from the opinion of the Recorder, and the decision of the court. As, however, matters are not yet ripe for this discussion, I shall abstain from all further arguments upon that subject.

ble; there had been a time when it might not have been so, but that the personal conduct of Mr. Crespigny towards me had long rendered that a matter never to be effected. Mr. Lovett said, that Mr. Crespigny was aware, and lamented the line of conduct he had pursued; that he was authorized to offer every proper acknowledgment, and to say, that if I could be induced to coalesce with Mr. Crespigny, my professional situation should be attended to, or words to that effect. To this I replied, you are aware, sir, that there is a club in this town, and that I am a member of it. Mr. Lovett said he was perfectly aware of both circumstances. Then sir, I replied, take as my answer to any proposition you can make, that I am determined to abide by the public declarations I have there made. Mr. Lovett again urged the possibility of a reunion with Mr. Crespigny, adverted to the waste of mind of borough

contests, and acknowledged that Mr. Crespigny did find in me a most powerful and active opponent. Our conversation then merged into a recapitulation of events long passed, and I at that time adverted to the offer of reconciliation I had made to Sir Claude de Crespigny. To this Mr. Lovett replied, Mr. Crespigny, or the family, lamented that it had not been accepted, but that Sir Claude had, on several occasions, been strangely unmindful of their interests. The remaining particulars of this conversation I do not recollect; but I believe there was a mutual wish expressed, that all personalities might cease, and we separated at least with expressions of civility and good-breeding.

In this place permit me to state to you, that the conduct I pursued on the 29th of September, the second of October, and the following days, was in consequence not only of my own

individual and private opinion, but also of the opinion of legal friends. This opinion has been greatly strengthened by that of others of high and distinguished character in the law; and I can but think, that the fears this conduct of mine had created, had no small effect in producing that overture to which I have just called your attention.

And now, Gentlemen, can you wonder at my surprise and indignation, when I see this same person officiously thrusting himself into the no very enviable situation of an informer and accuser, resting one part of his accusation upon documents which, in common honour and probity*, ought to have been consigned to oblivion at the death of the person to whom they were addressed, and the other upon an

* Mr. Lovett, in his reply, endeavoured to exculpate himself from the charge of having betrayed private confidence. How far the same wish to exculpate himself inculpates the person who did actually betray it, needs but little illustration.

ill assorted and unfounded assertion, which really I can but think he himself repents of having made. How can this gentleman, who himself endeavoured to influence my conduct by offers of advantageous reunion, dare to impeach it, for the sake of removing me from an office, to which, as I have every reason to believe, he himself aspires. Are this gentleman's hands so unpolluted, his intentions so virtuous, his care and affection* for the borough of Aldeburgh so great, that what in me is attempted to be stigmatized as crime, in him appears a virtue? But let me inform you, Gentlemen, before you proceed to pass judgment, that I and others have heard this gentleman affirm, that boroughs were now but mere machines for the return of

* Mr. Lovett, in his reply, congratulated himself upon having lost no time, since he had been a member of the corporation, in introducing to the notice of the

members*, and that all these important offices, for a breach of the duties of one of

bailiffs and capital burgesses an act of one of its members, which he considered as disgraceful, and tending to the injury and scandal of the burgh. Certainly it must be admitted, that Mr. Lovett did not betray any want of energy in bringing forward this accusation, since he was elected an inferior burgess on the 4th of January, and brought forth his accusation on the 6th. Whether Mr. Crespigny introduced this gentleman into the corporation for the purpose of assisting him in his avowed intention of amoving me out of it, is a matter of wild and uncertain conjecture. But there can be little doubt but that the inhabitants of Aldeburgh consider themselves as greatly obliged to Mr. L. for his having effected (for a time, at least) the expulsion of the only individual of the common-council who had any natural claim to his situation.

* Mr. Lovett, at the time of my delivering this defence, appeared to have forgotten having made such a declaration. To the accuracy, however, of my report, I can adduce the testimony of my friend Mr. Jermyn, who was present at the time, and who, in reply, observed, that he believed a court of law would not so regard them.

which he nevertheless presumes to accuse me, are mere dead letter, and of no moment or consideration. Let it not pass without notice either, that this Mr. Lovett is a person till of late unknown to the inhabitants of this borough, and now chiefly introduces himself as the ready instrument of the acknowledged violence and persecution of his friend and patron, Mr. Charles Crespigny. True it is, that very recently he has been elected a freeman and an inferior burgess of this borough: but, Gentlemen, these very circumstances ought to excite your suspicion, since it appears most evident, that he has deceived you, in order that he may be duly prepared to avail himself of the victory which he so sanguinely anticipates*. The circumstances set forth in his accusation occurred before Mr.

* Whether Mr. L. attained the supposed object of his ambition, I have had no means of ascertaining. Such was the common report of the place.

Lovett had any political or corporate connexion with this borough; and surely he ought to have paused before he thus intruded himself upon your notice, for the purpose of arraigning the public conduct of the only *native* individual of your common-council; of an individual who, amongst other pretences to the situation he holds, desires that it may be noticed, that he is a descendant in a direct line from that Matthew Groome whom the first James thought worthy of making the first bailiff of this ancient borough. Is this, gentlemen, fulfilling the gracious intentions of that same sovereign, who, of his especial favour, enabled the inhabitants of this place to meet justice within their own precincts? is it not rather a public demonstration of that determined spirit of proscription, which caused a member* of your com-

* Mr. Charles Fox Crespigny.

mon-council to aver, that, with his consent, an inhabitant of Aldeburgh never should again enjoy the freedom of the borough*? Is this the mode of reconciling the minds of those submitted to your charge? is this the way to approve yourselves impartial administrators of public justice upon the fair principles of the wise and beneficent laws of our excellent constitution? If, amidst your various reading, history ever forms a part of your learned amusements, and if history be only philosophy teaching by example, let me admonish you to regard the analogies you may there find. Thus much, Gentlemen, for the corruption of

* That this spirit of extermination has been pretty active, is evident from the note in page 69; and it ought further to be observed, that of the few resident freemen there mentioned, no small portion of them obtained their freedom from servitude; a right which Mr. Crespigny has not dared to deny, although he has lately attempted to abridge it.

my accuser: but now permit me to pass on to the other circumstances connected with this charge, to which I have before adverted, viz. the conspiracy and violence on which they are founded. These heavy charges were, in some part, proved by the conversation between Mr. L. and myself, which it became necessary, to my self-justification, for me to detail. Gentlemen, I can prove to you, by the testimony of my very accuser, by the testimony of a cloud of witnesses, if it were necessary, that this attempt, weak and futile as I feel assured it will be, to amove me from the office of capital burgess, and to deprive me of my freedom of the borough, owes not its origin to the charges preferred against me by Mr. Lovett; but to that very firm and powerful influence I oppose to the degrading and injurious usurpation of his friend, Mr. Crespigny. Gentlemen, as I before said, the documents upon which

the first charge is grounded, have been, ever since the dates of them, as I have every reason to believe, in the pocket of Mr. Crespigny; and there they did remain, and there they would have remained, had not the exertions of the party with whom I am connected, made him tremble for the borough-property bequeathed to him by the third codicil of his father's will*, and have tempted his theological and legal friend, Mr. Lovett, to try if, by means of them, they could not get rid of so troublesome and inquisitive an opponent. And now, Gentlemen, it becomes my painful duty to notice certain circumstances connected with the very prosecution of this accusation, which I willingly hope had their origin in error and haste, and not in a predetermination, on the part of any individual or indi-

* This codicil is subjoined to the note in page 55.

viduals of the common-council, to amove me, at all hazards, (to use Mr. Lovett's expression,) from my office of capital burgess. The first circumstance to which I must beg to draw your attention, is the wording of the notice* served upon me to attend the assembly of the 6th of January. In that notice, which is regularly signed by the existing bailiffs, I am summoned to attend an assembly to elect capital burgesses, and to *amove* a capital burgess. What! Gentlemen, can it be suffered to go abroad into the world, that, not only before the individual to be accused was heard in his defence, but before even an accusation was made, the bailiffs of this borough had predetermined to punish him for his supposed offences? Would not this carry with it, at least, the appearance of

* This notice is set out in page 7, and remarked upon in the note, page 8.

an act of violence unknown to the laws of our country and to the upright practice of its courts? Again, upon my entrance into the assembly, an attempt was made to prevent me, at that time an unstigmatized and legal member of it, to inspect its public records; and, after Mr. Lovett had been permitted to read his charge and proofs, a vote was passed, without deliberation or argument, that they should be entered into the public records, and a notice, previously prepared, and in the possession of the common clerk of your borough, was served upon me, to attend this day to show cause why I should not be amoved from my office of a capital burgess, and disfranchised. This predetermined spirit was confirmed to me yesterday, when I was informed, that at Mr. Crespigny's table, since the exhibition of the charges against me, it was broadly asserted, that the subject of my amoval would be ultimately

determined in the court of King's Bench. The presence, however, of our worthy Recorder, gives me confidence to expect a speedier and as just a determination as that honourable court would afford.

This, Gentlemen, is the defence I make to the accusations preferred against me: and although I will not tire your patience by a recapitulation of facts or arguments, yet suffer me to remind you, that, respecting the first charge, no overt act was committed; that the distinction between corrupt practice *durante officio*, and a proposal to resign an office for a valuable consideration; which latter practice, be it remarked, Gentlemen, is publicly recognized by the first characters of our country upon a proposed change of administration, is great, unanswerable, and valid. In this case, however, intention only can be proved; and I trust that I have convinced you, that even if I was in error, it was only an error of

judgement. Besides which, it may surely be insisted upon, as a complete waiver of the advantage which is now attempted to be taken against me, when it is certain that these acts of supposed criminality have, during a period of five years, been known to the bailiffs and common-council of the borough for the time being; and yet, that they have not only permitted me to act, but have frequently summoned me to their assemblies. Upon the second charge I shall not enlarge more; for, if the arguments already advanced will not acquit me, I know of no others that can be urged. And now, Gentlemen, before I conclude, suffer me again to exhort and warn you to lay aside all party-feeling and animosity. You stand, I am well aware, in a strange and unusual situation: you, in point of fact, are both judges and jury. Nay, more, some of you must also feel yourselves identified with my accuser. That

misrepresentation, personal animosity, and a variety of collateral causes, may have, perhaps, prejudiced your minds, I can but fear; for, when I look around me, I perceive but too many faces unknown to me and my fellow-townsmen*, and introduced into the grave and solemn situation in which they now stand, by the very individual, who, I hesitate not

* Mr. Muller, who was elected a capital burgess on Saturday, the 4th of January, is a lieutenant in the navy, at this time employed at the signal station of Aldeburgh, and the particular friend of Mr. C. F. Crespigny. This forms his whole connexion with Aldeburgh.

Of Mr. Kensington and Mr. Jones, who were elected and sworn into the office of capital burgesses five minutes before they voted, that the accusation brought forward by Mr. Lovett should be recorded, I can say nothing; for of them, I, in common with the inhabitants of Aldeburgh, know nothing, but that they were introduced by Mr. C. F. Crespigny, who appears to consider them as his confidential supporters.

to affirm, has conspired with my accuser, to amove me from an office, the duties of which I feel to have fulfilled. But, Gentlemen, whatever may have been your previous feelings, yet, upon the present occasion, I feel confident, that, consulting your duty and pondering upon that solemn and sacred oath which some of you have so recently taken, and of the breach of which I am so unjustly accused, you will, as honest and enlightened Englishmen, do justice in the case. Gentlemen, I shall conclude this defence in the memorable words of an illustrious character, accused before the highest tribunal of this country,—
“ In judging my honour, do not forget your own.”

Mr. Lovett was now heard in reply; the principal points of which have been

already noticed in the several notes added to this defence.

Mr. Recorder then laid down the law of the corporation, as also stated in the notes, and proceeded to sum up the particulars of the charge; for, as to the defence, he did not deign to notice one single argument that it contained, except that, alluding to the length of time that had elapsed since the commission of the alleged offence.

The court proceeded to the question of guilty or not guilty of misbehaving myself in my office of capital burgess, which was carried in the affirmative, as was also the question of amoval, by the votes of the following persons; viz. Messrs. P. and C. Crespigny, Toker, Neeve, Muller, Kensington, and Jones.

Mr. Long did not vote upon either question; Sir John Keene, Stafford S. Baxter, Esq. and William de Crespigny, Esq. were absent.

Thus finished the business of the morning: and it must now remain with the freemen at large of the borough of Aldeburgh, and my own particular friends, to whom I make this appeal, to decide, whether or not *sufficient* cause was shown by me why I should not be amoved from my office of capital burgess.

* The second charge, upon which it was intended to deprive me of my freedom, was abandoned, as being wholly untenable and unsupported.

FINIS.

J. MOYES, PRINTER,
Greville Street, Hatton Garden, London.

ERRATA.

Page 17, line 6, for condition, read conditions.
 — 41, note, — 7, — any other, — any of them.
 — 42, note, — 3, — capital, — inferior.
 — 58, — 9, — this, — their.
 — 60, — 20, — 6, — 8.
 — 70, — 17, — the semicolon, substitute a comma.

P. S. On the 6th of February, whilst this Appeal was in the press, the Court of King's Bench refused an application for a rule to show cause why an information, in the nature of a *quo warranto*, should not be filed, calling upon the present bailiffs of the borough of Aldeburgh to show by what authority they exercised that office, upon the opinion of Lord Ellenborough, "that the swearing in before the last bailiffs was a good swearing in." This determination seems to disturb the doctrine laid down in the case of the King against Harper, 5 East.

No 14

Sir H. de Crispington

